

### **REMARKS**

This is in response to the Office Action dated September 1, 2004. Claims 1-3, and 5-22 have been currently amended. Claim 4 has been canceled. Claims 23-26 have been previously presented

Attached is a Petition For Request for A Three-Month Extension of Time and a check in the amount of \$510 for the government fee.

In the Office Action, Examiner Basichas indicated that the current application names joint inventors. Applicant respectfully disagrees with the Examiner. Mr. Dennis Lewis is the sole inventor of the present application, as is shown in the attached copy of the Combined Declaration and Power of Attorney and the Transmittal of Application. In addition, Applicant believes he has properly met the obligation under 37 CFR 1.56 to indicate the inventor and invention dates of each claims that was not commonly owned at the time a later invention was made as shown in item No. 5 of Applicant's New Application Transmittal, a copy of which is attached hereto.

Claims 1-8, 12-16, and 22-26 have been rejected under 35 USC 102(b) as being anticipated by United States Patent No. 5,845,631 to Kleva et al. Claims 1-3, 5-8, and 12-16 have been currently amended. Applicant requests reconsideration of the rejection.

Applicant's independent claim 1 has been currently amended to include a burner plate having a plurality of ports or groups of ports provided at spaced locations therein through which a pre-mixed gas/air mixture passes so as to allow inlets to be served by a single, common burner. The '631 Kleva et al patent does not include the burner plate of Applicant's currently amended claim 1. Applicant believes that currently amended claim 1 is novel over the '631 Kleva et al patent and respectfully requests reconsideration of the rejection.

The '631 Kleva et al patent discloses a known burner assembly with a plurality of "in-shot" type burners which are associated with heat exchange tubes. The Examiner has suggested that the wall 16 within the '631 Kleva et al patent is equivalent to Applicant's plate 10. However, the numeral 16 in the '631 Kleva et al patent refers to a structural wall (see Figures 1-4 and lines 60-65 of col. 5) and not to Applicant's burner plate as described in currently amended claim 1. Indeed, the '631 Kleva et al patent includes apertures in the wall 16 and in the bracket 21; however these apertures merely provide means to hold the inlets of the heat exchanger tubes in a correct orientation and do not take part in any of the combustion process as do the plurality of ports provided at spaced locations through which a pre-mixed gas/air mixture passes as in Applicant's disclosure. Hence, the apertures in the '631 Kleva et al patent are not equivalent to the ports or groups of ports in Applicant's burner plate.

In addition, combustion takes places in the '631 Kleva et al patent at the exit of the number of burners (as seen in Figure 1) which are referred to as "the burners 4" throughout the description. Also, the Kleva et patent (lines 37-42, col. 4) refers to "a gas manifold 15 to supply burners 4, all in a conventional manner". It is clear that the '631 Kleva et al patent discloses only a known arrangement which comprises a number of burners for supplying combustion gases to a number of heat exchange tubes. In contrast, the present invention provides for a single burner assembly which can serve a number of heat exchange tubes by the provision of a burner plate with a number of ports therein. These features are novel over the cited reference, and Applicant requests reconsideration of the rejection.

Applicant's independent claim 22 as currently amended includes a burner assembly having a housing providing a combustion chamber, a body having a single gas supply leading into a cavity

defined within the body acting as a mixing chamber in which gas and air mixes, a plate having a plurality of ports or group of ports in a spaced configuration attached to a front end of the body and a series of HX tubes in a predefined configuration. These features are clearly not found in the '631 patent to Kleva et al. The Kleva et al '631 patent neither discloses or even suggests the provision of a mixing cavity within the body of the burner and merely provides ducting for the provision of gas to each burner according to Figures 1-4. Applicant believes that the currently amended independent claim 22 is novel over the '631 Kleva et al patent. Reconsideration of the rejection is requested.

In addition, Application's invention is particularly advantageous since it provides a simple and cost-effective manifold/burner assembly which can provide combustion products to a number of heat exchange tubes via a burner plate. The ports within the burner plate provide control of air/gas or combustion in a far more cost effective manner than has previously been available. Furthermore, the burner assembly of Applicant's invention take up far less space than conventional multiple burner arrangements and the interchangeable nature of a burner plate allows different heat exchange tube configurations to be simply catered for by providing plates with differing port formations thereon.

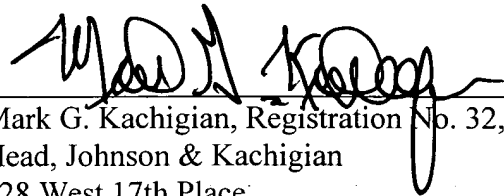
Therefore, Applicant sincerely believes that the currently amended claims are novel over the '631 Kleva et al patent and, therefore, requests reconsideration of the rejection.

It is believed that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is

respectfully requested. If there are any charges associated with this amendment, the Examiner is hereby authorized to charge such charges to Deposit Account No. 08-1500.

HEAD, JOHNSON & KACHIGIAN

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark G. Kachigian', is written over a horizontal line.

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